

**MINUTES**  
**Montana Fish, Wildlife & Parks Commission Meeting**  
**Helena Headquarters**  
**1420 East 6<sup>th</sup> Avenue**  
**Helena, MT 59620**

**FEBRUARY 10, 2005**

**Commission Members Present:** Steve Doherty, Chairman; Tim Mulligan, Vice-Chairman, John Brenden, Shane Colton, Victor Workman.

**Fish, Wildlife & Parks Staff:** Jeff Hagener, Director; FWP personnel.

**Guests:** See February, 2005 Commission file folder.

**Topics of Discussion:**

1. **Governor's Philosophy on Fish, Wildlife & Parks Management**
2. **Opening - Pledge of Allegiance**
3. **Approval of December 15-16, 2004 Commission Minutes**
4. **Approval of January 6, 2005 Commission Conference Call Minutes**
5. **Approval of January 10, 2005 Minutes**
6. **Approval of January 11, 2005 Commission Conference Call Minutes**
7. **Approval of Commission Expenses through December 31, 2004**
8. **Approval of Commission Expenses through January 31, 2005**
9. **Election of Commission Vice-Chairman**
10. **Chief Plenty Coups State Park Grant of Road Easement to BIA- Final**
11. **Parks Fee Rule - Tentative**
12. **Seeley Lake No-Wake Zone on North End of Lake - Final**
13. **Exotic Wildlife Classification for Importation / Possession - Tentative**
14. **Canyon Ferry Reservoir Yellow Perch Emergency Regulation Change - Final**
15. **South Fork Cutthroat Trout Restoration Project - Informational**
16. **2005 Sheep Reopening in HD315 and HD455 - Final**
17. **2005 Lion Boundary Change - Final**
18. **2005 Spring Black Bear Quotas - Final**
19. **2005 Spring Turkey Seasons - Final**
20. **Game Damage Permit Authorizations - Final**
21. **Grazing and Sharecrop Leases - Final**
22. **2005 Deer, Elk & Antelope Seasons/HD Bounds - Final**
23. **2005-2006 Hunting Season Setting - Final**
24. **2005-2006 Bison Season Setting - Final**
25. **Public Opportunity to Address Issues Not Discussed at this Meeting**

**1. Governor's Philosophy on Fish, Wildlife & Parks Management.** Governor Brian Schweitzer shared his views on management of Montana's resources and encouraged the Commission to keep the public's interest foremost when making decisions and not let politics interfere.

**2. Opening - Pledge of Allegiance.** Chairman Steve Doherty called the meeting to order at 8:15 a.m. and led the Pledge of Allegiance.

**3. Approval of December 15-16, 2004 Commission Minutes.**

*Action: Brenden moved and Mulligan seconded the motion to approve the minutes of the December 15-16, 2004 meeting. Motion carried.*

**4. Approval of January 6, 2005 Commission Conference Call Minutes.**

*Action: Colton moved and Workman seconded the motion to approve the minutes of the January 6, 2005 conference call meeting.*

*Discussion on Motion:* Brenden stated the January meetings were illegal due to the lack of sufficient public notification as required by the Open Meeting Law. The meeting on January 6, held immediately after Governor Schweitzer's appointments, and the subsequent meetings on January 10 and 11 did not provide the 48-hour notice required by the Open Meeting Law. The law was established to provide the public adequate time for involvement in the meetings, and these Commission meetings were in violation. Brenden said he takes exception, and it is an affront to the people of Montana. Colton asked Brenden if he objected at the time of the meetings. Brenden replied that he did not think of it at the time, but would have objected had he thought of it then.

Doherty said the question before them is the approval of the minute's contents, not the legality of the minutes. Do the minutes accurately reflect what occurred at the meetings, or are there amendments? Brenden reiterated that the meetings were not properly noticed to the public, therefore the meetings and minutes are illegal.

Bob Lane, FWP Chief Legal Counsel, said this action concerns the approval of the minutes themselves. He said the Department was involved in setting the meetings up, and the circumstances of action provided adequate notice. Lane said there was already public awareness, and attendance at the meetings indicated that the varied interests were represented and involved. He said he understands the concerns raised by Brenden, however under these circumstances the action was appropriate.

Doherty asked for remedies should anyone challenge this situation. Lane said there are three alternatives. One is for the Commission to address the issue and duly note it, a second is for the Commission to reconsider the decision again if the feeling is that there was not enough public involvement, and a third alternative is to go to court and ask the judge to decide if actions were appropriate.

Brenden said in the two years he has been on the Commission, sufficient notice has always been provided. He added that meetings were not scheduled for January in the first place. Lane said under other circumstances this would not have been sufficient time, but this particular issue has been under public scrutiny.

Doherty acknowledged that Brenden's comments were heartfelt, and he added that the Commission does indeed want to involve the public.

*Action on Motion: Motion carried. Four in favor – one opposed (Brenden).*

**5. Approval of January 10, 2005 Commission Minutes.**

*Action: Colton moved and Mulligan seconded the motion to approve the minutes of the January 10, 2005 meeting. Motion carried. Four in favor – one opposed (Brenden).*

**6. Approval of January 11, 2005 Commission Conference Call Minutes.**

*Action: Mulligan moved and Colton seconded the motion to approve the minutes of the January 11, 2005 conference call meeting. Motion carried. Four in favor – one opposed (Brenden).*

**7. Approval of Commission Expenses through December 31, 2004.**

*Action: Mulligan moved and Workman seconded the motion to approve the Commission expenses through December 31, 2004 as presented. Motion carried.*

**8. Approval of Commission Expenses through January 31, 2005.**

*Action: Mulligan moved and Workman seconded the motion to approve the Commission expenses through January 31, 2005 as presented. Motion carried.*

**9. Election of Commission Vice-Chairman.** Doherty asked for nominations. Colton nominated Mulligan. Workman seconded the nomination.

*Action: Brenden moved and Workman seconded the motion to cease nominations and elect Tim Mulligan as Commission Vice-Chairman. Motion carried.*

**10. Chief Plenty Coups State Park Grant of Road Easement to BIA – Final.** Doug Monger, FWP Parks Division Administrator, said the Bureau of Indian Affairs is conducting a construction project on Highway 418 that runs between Billings and Pryor through the Crow Reservation, and they are now straightening a curve located in the Park. The BIA has requested an easement of .98-acres for reconfiguration of the road, as well as temporary construction easements. Compensation will be \$543. The reclaimed half-acre right-of-way, with new fencing on each side of the road, will be returned to FWP after construction is completed. FWP can accept the \$543 from BIA only because it is a federal agency, normally property must be replaced in-kind with other property.

*Action: Mulligan moved and Workman seconded the motion to approve the permanent and temporary easements to the U.S. Bureau of Indian Affairs for the road construction project.*

*Discussion:* Mulligan questioned the status of the adjoining property that FWP was interested in annexing to the Park. Monger said it is an outstanding land issue, but the Department is still interested in obtaining it since it adjoins FWP land. The ground was appraised at fair market value, and the landowners are unwilling to sell at that value.

*Action on Motion: Motion carried.*

**11. Parks Fee Rule – Tentative.** Doug Monger, FWP Parks Division Administrator, explained that every two years the Commission must approve fees charged at State Parks and FAS campsites. It also includes fees for Alberton Gorge commercial use, and for the Blackfoot River Special Permits. The fees are utilized for the operation and maintenance of those programs.

In 2003, SB336 placed the optional \$4 per vehicle fee on the purchase of license plates, which allows Montana residents free access to the state parks. The \$4 that is collected goes toward the operation and maintenance costs of the state parks and fishing access sites. Monger reported that 75% of persons purchasing license plates are opting to pay the \$4 fee.

Monger said that there are several small changes proposed to the existing Fee Rule. The number of parks increased from 43 to 50. The primary reason for the increase is the individual parks at Flathead Lake State Park are now designated as separate parks rather than grouping them all under one single title. Tower Rock and Brush Lake are two new parks and Stewart Mill Bay is a new fishing access site. Ashley Lake FAS and Bearpaw Battlefield State Park were removed from the list as they were in land trades and are no longer owned by FWP.

Additional changes include fee adjustments to Bannack State Park, Lake Elmo, Wayfarers State Park, Tongue River Reservoir State Park, Stewart Mill Bay, Nilan Reservoir, Bean Lake, Bynum Reservoir, and Bear Paw Lake. There are no changes to the Smith River rules so they continue as they are.

The Department is also proposing a new rule that would implement a special recreation permit system and fee structure for commercial use, organized groups, and competitive events on the Blackfoot River.

Mulligan noted that the Fee Rule Chart does not accurately reflect the proposed changes. Monger replied that the old fee rule was provided along with the new rule, but assured the Commission that the changes are indeed included in the proposal itself.

Colton asked about the status of the potential acquisition of the second half of Brush Lake. He said the landowner had contacted him and said that although the offer made by FWP was low, he is not totally opposed to further negotiations regarding the sale of the land. Monger stated that the ground was appraised as agricultural land, and the Department is required to offer at appraised value. In this case, FWP offered a higher value than appraised, which is permissible when approved by the Commission and the Land Board. Negotiations will continue. Brenden supported continued efforts to acquire the south part of Brush Lake

*Action: Mulligan moved and Colton seconded the motion to approve the tentative Biennial Fee Rule as recommended by the Department, inclusive of corrections to the Fee Rule Summary Chart. Motion carried.*

**12. Seeley Lake No-Wake Zone on North End of Lake – Final.** Jim Kropp, FWP Enforcement Division Administrator, explained that in order to protect the pair of loons that are nesting on the north end of Seeley Lake, a no-wake zone has been requested for that area by the Seeley Lake Ranger District. A no-wake zone would also alleviate conflicts between canoeists and motorboat operators. This proposal was previously approved as a tentative, and the comment period generated several supportive comments.

As there are numerous no-wake zones in Montana, this would not set a precedent. The Department receives numerous petitions for motorboat and water safety restrictions annually. Petitions must be submitted to FWP between August 1 and September 30, after which they are reviewed and presented to the Commission.

Mack Long provided a map to illustrate the area of discussion. He said Seeley Lake totals 1,100 acres, and the area under consideration involves only a 40-acre section of the lake, which is shallow and weedy. A canoe trail enters this area of the lake from the north, and the canoe takeout is at the ranger station. Anglers would still be able to fish the area, but waterskiing would be eliminated. Long said this action is necessary to protect the loons. Loons prefer an undisturbed, tranquil habitat. Montana needs to provide protection to loons to promote more generations of them. If not, Montana will lose them. Hopefully, they can tolerate canoe traffic and bird watchers. Chicks have perished over the last few years due to their feeding areas overlapping with boating areas.

Long added that there are also conflicts when canoe traffic meets motorboat traffic. Motorboat traffic is heavy when there is a strong north wind on the rest of the lake. There have been incidents of canoes being swamped by motorboats, creating safety issues. The no-wake zone will be marked with buoys.

*Action: Workman moved and Colton seconded the motion to approve the Administrative Rule to create a no-wake zone restriction north of a line from Rice Creek to Deer Creek involving approximately 40-acres on the north end of Seeley Lake. Motion carried.*

**13. Exotic Wildlife Classification for Importation / Possession – Tentative. Jim Kropp, FWP Enforcement Division Administrator,** said this is a new process regarding a new law that deals with classification of exotic species imported into Montana. Senate Bill 442, effective January 2004, requires that exotic species of animals imported into Montana must be classified, and requires that criteria be established with which to classify them. A classification review committee has been appointed, has met several times, and has developed criteria for classification of exotic species for which importation has been requested.

**Tim Feldner, FWP Enforcement Division Commercial Wildlife Permit Manager,** explained the process the committee follows, and provided an overview of the recommendations through use of a Power Point presentation. The Classification Review Committee members include representatives of involved agencies, the exotic animal industry, and the private sector. The Committee provides recommendations to the Commission for classification into one of three categories.

The three categories of exotic animals are non-controlled, controlled, and prohibited.

Non-controlled exotics may be possessed without permits, but need health certificates and import permits.

Controlled exotics can be imported, possessed or sold only with approval of FWP and the Commission. Specific conditions for possession of controlled exotics may be required by the Commission. They also must obtain a health certificate and import permit.

Prohibited exotics may not be imported, possessed, or sold in Montana by private individuals. Exotic species may be placed on the prohibited list if found that:

- \* if released or they should escape, they would pose a threat to native wildlife, plants or agriculture
- \* they would pose a health or safety risk to humans, wildlife, or livestock through disease, hybridization or ecological or environmental damage
- \* they would not be readily subject to control by humans while in captivity

The Administrative Rules provide a list of uncontrolled, controlled and prohibited species, provides conditions for controlled species, provides exceptions and conditions for possession of prohibited species, provides an appeal process, and provides for transport through the state without permits.

Kropp noted that there are always penalties – misdemeanors – that go hand-in-hand with the rules.

*Action: Mulligan moved and Brenden seconded the motion to approve the tentative rule for classification of exotic species as recommended by the Department, through the Classification Review Committee, and proceed with the administrative rule-making process. Motion carried.*

**14. Canyon Ferry Reservoir Yellow Perch Emergency Regulation Change – Final.** Chris Hunter, FWP Fisheries Division Administrator, stated that this is an emergency regulation change due to serious decline in perch population in Canyon Ferry. Canyon Ferry, Hauser and Holter Dams are under a 10-year management plan. The biologists who manage the reservoirs meet periodically with interested parties, and during the course of the last meeting, it became obvious the perch population was in trouble. Hunter provided graphs illustrating the decline. Yellow perch are vital in Canyon Ferry as they provide forage for other fish, and provide substantial fishing opportunities. Canyon Ferry is one of two lakes, Ft. Peck being the other, with the highest number of angler days. Comments were received supporting a reduced limit for the rest of this winter and through next summer. The situation can be reviewed during the regular regulation setting process. Hunter said the recommended limit is twenty and twenty in possession.

Mulligan said he is concerned that a 20-fish limit is not a sufficient reduction. He said his preference is to implement a bag limit of fifteen, as well as a possession limit of fifteen. That would reduce the harvest. He is not in favor of totally halting fishing as of yet. Brenden agreed with Mulligan. This cannot wait another year, and a limit of 15 will send a strong message to the public.

Doherty asked if the public had a chance to comment, to which Hunter replied that this emergency action is in response to the public's concerns.

*Action: Mulligan moved and Brenden seconded the motion to adopt an emergency fishing regulation change for Canyon Ferry Reservoir, reducing the perch bag limit and possession limits to 15 daily, 15 in possession, effective February 14, 2005 for the remainder of 2005 fishing season which ends in February 2006.*

Doherty accepted public comment.

John Wilson, Montana Trout Unlimited, reiterated that there is a serious problem in Canyon Ferry. His organization supports this emergency regulation, and they feel it is the tip of the iceberg. The 10-year multi-species management plan is half-way through, and all species are below target. The plan is not working. He supports the motion to set limits at fifteen.

Colton asked how anglers will be notified of the emergency regulation change. Hunter replied that notice will be provided through signage posted at access points, and through press releases. Enforcement will use discretion.

*Action on motion: Motion carried.*

**15. South Fork Cutthroat Trout Restoration Project – Informational.** Chris Hunter, FWP Fisheries Division Administrator, said a draft EIS was prepared and published in June of 2004 to remove non-native and hybrid trout from 21 of the 350 lakes in the South Fork of the Flathead drainage, and replace them with pure Westslope Cutthroat Trout. The majority of these lakes did not contain fish originally, but have been stocked over the years by the Department, by the Federal Government, by outfitters, and by the public. The predominant species stocked in these lakes was Rainbow Trout. In the late 1950s, hybridization between the Rainbow Trout and the Westslope Trout began causing a problem situation. By the 1980's, the conservation of Westslope Trout became a large issue, and the Department began undertaking processes to protect them.

One program that was initiated to resolve the problem was to saturate the lakes with so many Westslope Trout that the Rainbow genes would be "swamped out". Over the last 20-30 years, swamping did not work well. Hybrids have entered the streams downstream of these lakes, and are throughout the South Fork. In 1996, Governor Racicot held a workshop on Trout, and FWP was charged with developing a MOU and Conservation Agreement to protect and preserve the Cutthroat Trout. In 1999, the document was signed by several agencies, including FWP, USFWS, BLM, NRCS, Forest Service, DEQ, DNRC, and other non-governmental groups interesting in the protection of pure Cutthroat populations. After this was finalized, the USFWS was petitioned to list Westslope Cutthroat Trout under the Endangered Species Act. In 2000, it was decided it wasn't necessary to list them due to Montana's efforts to restore and protect them. In August of 2003, another finding was issued in the Federal Register that it was not necessary to list them due to Montana's ongoing projects.

Brenden said there are hundreds of fishermen opposed to this. He said his focus is on recreational opportunities, and he is opposed to eliminating a good fishery to develop a pure strain that only a few groups want. He added that most kids and fisherman just like to catch fish.

Workman said he has received calls on this project, and most are against it. He does not feel the swamping process is effective.

Colton said if nothing is done, there will be a Court Order telling Montana how to manage the Westslope Cutthroat Trout. Once it is listed under the Endangered Species Act, FWP will lose authority to manage the fish. At that point, all of the fish may be poisoned and nobody will be able to fish at all. Colton said action needs to be taken now.

Mulligan said it is difficult issue, and it's an issue that people will never entirely come to agreement on. People are not upset with science, but with philosophy. Education is important and it is necessary to continue providing education.

Brenden suggested removing limits to let fishermen have the opportunities rather than poisoning the fish. Hunter said that may be an alternative about a year before poisoning is undertaken. Workman said the lakes are remote and many people will not be able to get into them. Hunter said it would still provide the opportunity.

**16. 2005 Sheep Reopening in HD315 and HD455 – Final.** Jeff Herbert, FWP Wildlife Division Assistant Administrator, and Gary Hammond, FWP Wildlife Division Management Bureau Chief, explained that FWP goes through a process of establishing annual hunting regulations, which involves adopting proposed tentative regulations and then final regulations. A public comment period occurs after adoption of the tentatives. Those comments are considered in the formulation of the finals.

*Herbert explained that there are annual and biennial seasons. Those processes are guided by management plans, such as the Elk Management Plan. Today's decisions set the hunting regulation frameworks. What is adopted as finals are what appear in the regulations. The regulations will be sent out immediately for printing. Quotas can be adjusted after spring counts are made. Sheep, lion and black bear were set last year for a two-year period, however there are some changes.*

**Bighorn Sheep**

**Region 3 – Bighorn Sheep**

No changes to the tentatives

*Action: Mulligan moved Colton seconded the motion to approve the Region 3 Bighorn Sheep regulations as recommended by the Department. Motion carried.*

**Region 4 – Bighorn Sheep**

One change to expand HD455 boundary

*Action: Doherty moved and Mulligan seconded the motion to approve the Region 4 Bighorn Sheep regulations as recommended by the Department. Motion carried.*

**Region 6 – Bighorn Sheep**

One change to the tentatives in HD680 to increase either-sex licenses from 10 to 15, increase ewe licenses from 20 to 30 with 15 of these ewe licenses valid in the east portion of the HD, and 15 ewe licenses valid in the west portion of HD680.

*Action: Brenden moved and Colton seconded the motion to approve the Region 6 Bighorn Sheep regulations as recommended by the Department.*

*Discussion: Mulligan asked if this change would effects the transplants. Gary said it would not.*

*Action on Motion: Motion carried.*

**17. 2005 Lion Boundary Change – Final.**

**Region 3 - Lion**

No changes to the tentatives

*Action: Mulligan moved and Doherty seconded the motion to approve the Region 3 Lion regulations as recommended by the Department. Motion carried.*



**18. 2005 Spring Black Bear Quotas – Final.**

No changes to the tentatives.

*Action: Colton moved and Brenden seconded the motion to approve the 2005 Spring Black Bear regulations as recommended by the Department. Motion carried.*

**19. 2005 Spring Turkey Seasons – Final.**

No changes to the tentatives.

Workman said there was a request to increase the permits in Region 1, and he asked the Region to speak to the issue. **Jim Williams, FWP Region 1 Wildlife Manager**, said there is hardly any snow in Region 1, and due to weather conditions, an increase in turkey permits is suggested. The proposal is to increase permits in Sanders County to 200, and increase permits in Lincoln County to 300. Presently they are set at 115 in Sanders County, and 175 in Lincoln County.

*Action: Workman moved and Brenden seconded the motion to approve the 2005 Spring Turkey seasons as recommended by the Department, with the inclusion of the amendment in Region 1 to increase permits to 200 in Sanders County and 300 in Lincoln County. Motion carried.*

**20. Game Damage Permit Authorizations – Final. Jeff Herbert, FWP Wildlife Assistant Administrator**, said these authorizations were all approved as tentatives. He explained this provides an advance solution if a regional issue comes up and needs handled outside the normal parameters. The district Commissioner and Regional Supervisor can adopt the game damage permit authorization, and if that particular Commissioner is unavailable, another can step in to make the decision.

*Action: Brenden moved and Workman seconded the motion to approve and authorize game damage permits as listed by Administrative Region for 2005/2006. Motion carried.*

**21. Grazing and Sharecrop Leases – Final. Jeff Herbert and Gary Hammond, FWP Wildlife Division**, presented the proposals for the two grazing leases that are due for renewal.

The first lease concerns the consolidation of two Cooperative Habitat Management Agreements involving agricultural ground on the Blackfoot-Clearwater WMA. FWP proposes to enter into the lease with the Montana Forest and Conservation Experiment Station (MFCES) and the Two Creek Ranch for the period of May 1, 2005 through November 30, 2005. This lease would provide wildlife habitat enhancement and would improve range conditions on the elk winter range.

*Action: Workman moved and Brenden seconded the motion to approve FWP entering into a grazing lease with the MFCES and Two Creek Ranch on the Blackfoot-Clearwater WMA for the period of May 1, 2005 through November 30, 2005. Motion carried.*

The second proposal is to renew the agricultural lease with the Rich Ranch, also located on the Blackfoot-Clearwater WMA. This lease would provide enhanced wildlife and fish habitat, control exotic vegetation, and improve passage through fencelines for elk. The lease would be effective from May 1, 2005 through April 30, 2007.

*Action: Workman moved and Brenden seconded the motion to approve FWP renewing an agricultural lease with the Rich Ranch on the Blackfoot-Clearwater WMA for the period of May 1, 2005 through April 30, 2007. Motion carried.*

**22. 2005 Deer, Elk & Antelope Seasons/HD Boundaries – Final.**

**DEER**

**Region 1 - Deer**

No changes to the tentatives

*Action: Workman moved and Doherty seconded the motion to approve the Region 1 Deer regulations as recommended by the Department. Motion carried*

**Region 2 - Deer**

Two changes to the tentatives – HD282 and HD284

*Action: Workman moved and Mulligan seconded the motion to approve the Region 2 Deer regulations as recommended by the Department.*

*Discussion:* Mulligan asked for verification that “youth” means ages 12-14. Hammond replied that was correct. Mulligan said he would like to see the youth designation set at 12-17 years of age. Herbert said that would be a significant change, and it would be necessary to review all youth prescribed instances. It would also need to be commented on by the public. Hagener said the attempt is being made to make the age designation consistent, but another thing to consider is that the youth from 12-14 get a free fishing license. He added if the fee increase passes, the youth will all be the same. Herbert recommended discussing it in the 2006 season setting process.

*Action on Motion: Motion carried.*

**Region 3 - Deer**

Two changes from the tentatives in HDs 320, 333, and in HDs 322, 325, 330

*Action: Mulligan moved and Workman seconded the motion to approve the Region 3 Deer regulations as recommended by the Department. Motion carried*

**Region 4 - Deer**

One change to the tentatives – HD423

*Action: Doherty moved and Workman seconded the motion to approve the Region 4 Deer regulations as recommended by the Department. Motion carried*

**Region 5 - Deer**

No changes from the tentatives

*Action: Colton moved and Mulligan seconded the motion to approve the Region 5 Deer regulations as recommended by the Department. Motion carried*

**Region 6 - Deer**

No changes to the tentatives

*Action: Brenden moved and Colton seconded the motion to approve the Region 6 Deer regulations as recommended by the Department. Motion carried.*

**Region 7 – Deer**

No changes to the tentatives

*Action: Colton moved and Brenden seconded the motion to approve the Region 7 Deer regulations as recommended by the Department. Motion carried*

## **ELK**

### **Region 1 – Elk**

No changes to the tentatives

Workman said there is a concern in HD132 and asked Region 1 to expound on the situation. **Jim Williams, FWP Region 1 Wildlife Manager**, explained that Stoltz Land and Lumber has experienced some damage to their timberlands near Swan Lake in HD132-00, so FWP now proposes five additional antlerless permits in response to their concerns. The opportunity would be district-wide and a map would be provided. Williams stated that this is a very small elk herd, but from Stoltz' perspective, it needs dealt with.

*Action: Workman moved and Colton seconded the motion to approve the Region 1 Elk regulations as recommended by the Department with the inclusion of the amendment to HD132 of five additional permits. Motion carried*

### **Region 2 - Elk**

5 changes to the tentatives.

**John Firebaugh, FWP Region 2 Wildlife Manager**, explained that HD204 and HD261 are in the Bitterroot Valley where a working group representing a variety of interests has requested the proposed changes. He said HDs 285-70 and 285-71 were split last year and public comment has driven this proposal. HD290 is between Ovando and Helmville and part of it has been archery only. Landowners are experiencing elk damage and have requested that FWP increase the area for rifle hunting.

*Action: Workman moved and Colton seconded the motion to approve the Region 2 Elk regulations as recommended by the Department with the following amendment that the portion of HD290 northwest of the North Fork of the Blackfoot River remain archery-only for the entire season, and the Aunt Molly FAS remain archery-only for the entire season, and the remainder of HD290 be open to rifle hunting for antlerless elk from October 23 through January 1 for those who with A9 licenses valid in the east portion of HD292, and the either-sex elk archery season close January 1 rather than December 15.*

Mack Long stated that FWP has worked with the Ravalli Fish & Wildlife group for some time. A working group was established in the Bitterroot comprised of eleven different interest groups. These two districts are in an area that is over-objective. There is a difference in opinion between FWP and the working group, however the two groups developed the proposed recommendation. As is typical, there are a few who do not like this proposal.

*Action on Motion: Motion carried.*

### **Region 3 – Elk**

Several changes to the tentatives

Mulligan said he wants to make sure the late hunt does not go south of Papoose Creek in HD363-62 (LPT 398-80). He does not want them to go to Hebgen Lake. That would mean the A9 licenses would not be valid south of Papoose Creek. Mulligan also said he would like HD332 go back to the standard season of 600 either-sex permits as it was listed before, good district-wide. He said the flight data does not support the liberal season, and several hunters have commented in opposition to the liberal season.

Even with less than ideal survey conditions, the observed number of elk must be the basis of consideration.

*Action: Mulligan moved and Workman seconded the motion to approve the Region 3 Elk regulations, with the exception of HD309 which will be dealt with separately, with his recommended amendments in HD360 and HD362 and HD332. Motion carried.*

The largest change is the proposed expansion of the Gallatin Valley Weapons Restriction Area and the creation of new Hunting District 309, which would encompass the entire Gallatin Valley Special Weapons Restriction Area. Historically, there have been portions of four hunting districts with special weapons restrictions, and this proposal is to simplify things by creating one single district. Comments received from landowners have now requested a weapons exclusion area where hunters can use any weapon.

**Kurt Alt, Region 3 Wildlife Manager**, explained the proposal to create a new Hunting District while at the same time expand the weapons restriction area by combining the portions of four districts that already have weapons restrictions, to create one single district. Public reaction has been mixed. This is an attempt to address the growth issues of the Bozeman community, and address game damage concerns of landowners. In one area there is residential growth where agriculture is shrinking. Part of the proposal is to exclude a portion of ground from the weapons restriction area, but would be under the same regulations as in HD309. Regulations would allow antlerless elk only. Rifles allowed until December 16.

Doherty accepted public comment on the tentative change.

Tim Kearns is an adjacent landowner who supports the expanded weapons area but does not support the proposed exclusion. A petition was signed by 50 residents who are concerned about the safety of this expansion. He asked the Commission to postpone the decision and invited them to visit the area.

Sherry Faber owns eighty acres in the area, and has horses whose safety she fears for. She said she has the right to not be afraid of errant bullets, and she added that hunters do not respect landowners. She has witnessed hunters finish a kill inside her property.

Patricia Silversmith has lived there a long time, and is not in fear. She has horses and is not in favor of the restriction. She does not see a problem at this point, but as the Valley grows it will become a problem.

Martha Kearns said she is in favor of weapons restrictions in the entire area.

Mulligan said this is an issue that surrounds every town in Montana. Weapons restriction does not ban the use of big game rifles, but restricts them during hunting season. People can possess them even when it is not hunting season.

*Action: Mulligan moved and Brenden seconded the motion to approve the Region 3 Expanded Weapons Restriction Area and create the new HD309 as recommended by the Department. Motion carried.*

*Action: Mulligan moved and Workman seconded the motion to approve all season proposals as recommended by the Department. Motion carried.*

#### Region 4 – Elk

One change to the tentatives – HD425-20 Sun River WMA

**Quentin Kujala, FWP Region 4 Wildlife Biologist**, explained that HD425 is west of Augusta in the center of the Sun River WMA, where there is a component of older age bulls. HD425 has a high vulnerability to harvest, so the season prescription is conservative. Currently there are five permits issued. The landowners, the Cobb Ranch, now plan to charge access fees. In an attempt to maintain an antlered opportunity in that district, the proposal is to reduce the number of permits to two and expand the length of the season.

Brenden asked if this is because elk numbers have dropped. Kujala replied they had not, that this is in response to a new situation where access fees will be charged, where historically it has been free. Workman asked if one permit would go to landowner preference. Kujala said not when two permits are issued. Kujala stated there is an issue of age structure, and issuing more permits would erode that age structure. He pointed out that management of the Sun River WMA is included in the Elk Management Plan. Mulligan questioned if it would be less contentious not to offer any permits; there are some who would prefer that alternative.

Doherty asked if reducing permits from five to two because of access issues, and removing landowner preference would anger the Cobb Ranch to the point they would refuse to let anyone on their land. Kujala said he has already visited with the Cobb Ranch and informed them that permits might be reduced or eliminated. Mulligan said there are two more opportunities to change the quota, and between now and then discussion with Mr. Cobb should take place.

*Action: Doherty moved and Mulligan seconded the motion to approve the Region 4 Elk regulations as recommended by the Department with the provision of visiting with Mr. Cobb.*

*Discussion:* Herbert is concerned that the situation will be different than what has been done in the past. Even if quotas are adjusted, the access fee will still remain. Kujala said the Cobb Ranch has lived up to their agreement to allow access in the past, so there is an expectation by the public that there will be access. Herbert suggested writing it into the regulations that hunters will not be allowed to hunt on the Cobb Ranch without paying an access fee. Kujala suggested perhaps the regulations should state that access may be difficult.

Brenden said he feels landowners should have preference to hunt on their own land. He hopes to make this work for both the Department and the Cobb Ranch. Kujala said this would provide opportunity to all parties.

*Action: Amendment to Motion: Colton amended the motion to add to the regulations that access may be limited on HD425-20. Motion carried. Four in favor – one opposed (Brenden). Brenden explained that he wants to let everyone know that FWP is looking into the whole situation.*

#### Region 5 – Elk

One change to the tentatives – HDs 511 and 530 to create youth (aged 12-14) hunting opportunities for antlerless elk on the general license.

*Action: Colton moved and Mulligan seconded the motion to approve the Region 5 Elk regulations as recommended by the Department. Motion carried.*

**Region 6 – Elk**

No changes to the tentatives

*Action: Brenden moved and Colton seconded the motion to approve the Region 6 Elk regulations as recommended by the Department. Motion carried*

**Region 7 – Elk**

One change to tentatives - Custer National Forest will be excluded from general season antlerless elk hunting. The 2005 regulations will be the same as in 2004 in HDs 702, 704, and 705.

*Action: Colton moved and Brenden seconded the motion to approve the Region 7 Elk regulations as recommended by the Department. Motion carried.*

**ANTELOPE**

**Region 2 - Antelope**

No changes to the tentatives

*Action: Workman moved and Mulligan seconded the motion to approve the Region 2 antelope regulations as recommended by the Department. Motion carried.*

**Region 3 – Antelope**

No changes to the tentatives

*Action: Mulligan moved and Workman seconded the motion to approve the Region 3 Antelope regulations as recommended by the Department. Motion carried.*

**Region 4 – Antelope**

Two changes to the tentatives – HDs 440 and 444 to create doe/fawn season with 75 either-sex and 100 doe/fawn in HD440, and 100 either-sex and 100 doe/fawn in HD444.

*Action: Doherty moved and Brenden seconded the motion to approve the Region 4 Antelope regulations as recommended by the Department. Motion carried.*

**Region 5 – Antelope**

No changes to the tentatives

*Action: Colton moved and Brenden seconded the motion to approve the Region 5 Antelope regulations as recommended by the Department. Motion carried.*

**Region 6 - Antelope**

Two changes to the tentatives in HD650 for 400 either-sex licenses in HD650-00, and 50 doe/fawn licenses in HD650-10.

*Action: Brenden moved and Colton seconded the motion to approve the Region 6 Antelope regulations as recommended by the Department. Motion carried.*

**Region 7 - Antelope**

No changes to the tentatives

*Action: Colton moved and Brenden seconded the motion to approve the Region 7 Antelope regulations as recommended by the Department. Motion carried.*

**23. 2005-2006 Hunting Season Setting – Final.** Gary Hammond, FWP Wildlife Division, said these outside dates are established a year in advance in order to frame a time period for the season.

*Action: Brenden moved and Workman seconded the motion to approve the 2005-2006 Season dates. Motion carried.*

**24. 2005-2006 Bison Season Setting - Final.**

No changes to the tentatives

*Action: Colton moved and Workman seconded the motion to approve the 2005-2006 Bison Season Dates as recommended by the Department. Motion carried.*

**25. Public Opportunity to Address Issues Not Discussed at this Meeting.**

Marvin Mace requested the Commission develop a waiting period for drawing permits to hunt trophy elk. This would provide more diverse opportunity to people instead of some receiving permits back-to-back.

John McDunn stated that the Teton Spring Creek Preserve presents minimal danger relative to hunting in the Preserve, as homes are not in close proximity to the hunting opportunities. This issue has been ongoing and he wants to keep it in front of the Commission and not let it drop.

*Action: Brenden moved and Workman seconded the motion to adjourn. Motion carried*

Meeting adjourned at 4:02 p.m.

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Steven Doherty, Chairman

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M. Jeff Hagener, Director